

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

KEVIN OWEN BURRESS,
Petitioner,

v.

NICK WELDON,
Respondent.

Case No. 4:21-cv-1551-CLM-NAD

MEMORANDUM OPINION

The magistrate judge has entered a report, recommending that the court dismiss as moot this 28 U.S.C. § 2241 petition because Petitioner Kevin Owen Burress, a federal pretrial detainee, is no longer housed within this court's jurisdiction. (Doc. 21). Though the magistrate judge advised Burress of his right to object to the recommendation within 14 days, the court has received no objections and the time for filing them has expired.

After considering the record, including the magistrate judge's report and recommendation, the court **ADOPTS** the report and **ACCEPTS** the recommendation. The court recognizes "that when the Government moves a habeas petitioner after [he] properly files a petition naming [his] immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner's release." *See Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004). But the court knows of no respondent within its jurisdiction who has the legal authority to carry out Burress' release. So the court agrees with the magistrate judge that this case is moot. As a result, the court will **DISMISS** this § 2241 petition **WITHOUT PREJUDICE**.

A federal prisoner doesn't need a certificate of appealability to appeal the dismissal of his § 2241 petition. *See Sawyer v. Holder*, 326 F.3d 1363, 1364 n.3 (11th Cir. 2003). So the court needn't discuss whether a certificate of appealability would be warranted here.

The court will enter a separate final order that closes this case.

Done and Ordered on April 19, 2023.

A handwritten signature in cursive script, reading "Corey L. Maze", is written over a horizontal line.

COREY L. MAZE
UNITED STATES DISTRICT JUDGE